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UNITED STATES DISTRICT COURT
Northern District of California

NEW SENSATIONS, INC.,

No. C 11-2770 MEJ

Plaintiff,

**ORDER RE DOE DEFENDANT #37's
MOTION TO DISMISS**

v.

DOES 1-1,474,

Docket No. 22

Defendants.

On June 7, 2011, Plaintiff New Sensations, Inc. (“Plaintiff”) filed this lawsuit against 1,474 Doe Defendants, alleging that Defendants illegally reproduced and distributed a work subject to Plaintiff’s exclusive license, (“*Big Bang Theory: A XXX Parody*”), using an internet peer-to-peer file sharing network known as BitTorrent, thereby violating the Copyright Act, 17 U.S.C. § 101-1322. Compl. ¶¶ 6-15, Dkt. No. 1. On September 22, 2011, the Court granted Plaintiff’s Application for Leave to Take Limited Expedited Discovery. Dkt. No. 13. The Court permitted Plaintiff to serve subpoenas on Does 1-1,474’s Internet Service Providers (“ISPs”) by serving a Federal Rule of Civil Procedure 45 subpoena that seeks information sufficient to identify the Doe Defendants, including the name, address, telephone number, and email address of Does 1-2,590. *Id.* at 11. Once the ISPs provided Does 1-1,474 with a copy of the subpoena, the Court permitted Does 1-1,474 30 days from the date of service to file any motions contesting the subpoena (including a motion to quash or

1 modify the subpoena). *Id.*

2 Now before the Court is a Motion to Dismiss, filed by Doe Defendant #37 (I.P. Address
3 108.34.138.72). Dkt. No. 22. In his motion, Doe #37 requests that the subpoena be quashed as to
4 him and the case against him dismissed because he does not reside, work, or conduct business in
5 California; has not contracted to supply services in California; the IP address that is identified as
6 assigned to him is not within the jurisdiction of this Court; he has no real property in California; he
7 does not consent to personal jurisdiction in California; he has no business or personal contacts in
8 California; and he has no significant relationship with California. *Id.* at 3.

9 Based on this information, it appears that the Court lacks jurisdiction over Doe Defendant
10 #37. Accordingly, the Court hereby ORDERS Plaintiff to either: (1) file a voluntary dismissal of
11 Doe Defendant #37, without prejudice to filing a complaint against him in the proper jurisdiction; or
12 (2) show cause why the Court should not grant Doe Defendant #37's motion to dismiss. Plaintiff
13 shall file its response by November 14, 2011.

14 **IT IS SO ORDERED.**

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16 Dated: November 1, 2011

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19 Maria-Elena James
20 Chief United States Magistrate Judge
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